

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHABRE NATHANIEL JOHNSON,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

8:22CV68

MEMORANDUM AND ORDER

This matter is before the court on various motions filed by Petitioner, each of which will be addressed in turn.

Filing 14 – Continuing Objection to Respondent Filing a Reply Brief

Petitioner renews his objection to that portion of the court’s progression order (filing 8) directing Respondent to file a reply brief no later than 30 days after Petitioner files a brief in response to Respondent’s answer and supporting brief. Construing Petitioner’s objection as a motion for reconsideration, the motion is denied for the reasons stated in the court’s July 28, 2022 Memorandum and Order. (Filing 13.)

Filings 17 and 18 – Objection to Respondent’s Motion for Extension and Motion for Default Judgment

On August 11, 2022, Respondent filed a motion to extend the time in which to file an answer, initial brief, and response to Petitioner’s objection to the Designation of State Court Records. (Filing 15.) The court granted Respondent’s motion on August 18, 2022. (Filing 16, Text Order.) Subsequently that same day, Petitioner filed his Objection to Respondent’s Motion for Extension (filing 17) and a Motion for Default Judgment (filing 18) asserting that Respondent’s delay

unfairly prejudiced him and the motion should, therefore, be denied and a default judgment entered.

The court may extend the time within which an act must be done for good cause “if a request is made, before the original time or its extension expires.” Fed. R. Civ. P. 6(b)(1)(A); *see also* Fed. R. Civ. P. 81(a)(4) (Federal Rules of Civil Procedure apply to habeas corpus proceedings). Respondent moved for an extension prior to the expiration of the August 11, 2022 deadline to file an answer, brief, and response, and the court, in granting the motion, found Respondent had demonstrated good cause for the extension. Respondent has since filed his answer, brief, and response (filings 19 & 20), and the court finds Petitioner was not unfairly prejudiced by the extension of the August 11, 2022 deadline. Accordingly, Petitioner’s motions are denied as moot.

Filing 22 – Motion for Extension

Lastly, Petitioner has filed a motion requesting an extension of 90 days to file his brief in response to Respondent’s answer. Upon consideration and for good cause shown, Petitioner’s motion is granted as set forth below.

IT IS THEREFORE ORDERED that:

1. Petitioner’s Continuing Objection to Respondent Filing a Reply Brief (filing 14), construed as a motion for reconsideration, is denied.
2. Petitioner’s Objection to Respondent’s Motion for Extension (filing 17) and Motion for Default Judgment (filing 18), are denied as moot.
3. Petitioner’s Motion for Extension (filing 22) is granted. Petitioner shall have until **January 11, 2023**, to file his brief in response to Respondent’s answer.

4. The Clerk of Court is directed to set a pro se case management deadline using the following text: **January 11, 2023**: check for Petitioner's brief.

Dated this 6th day of October, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge